

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

18-cv-048645-EMC

IN RE TESLA SECURITIES LITIGATION

TRIAL SHEET, EXHIBIT and WITNESS LIST

| JUDGE: | PLAINTIFF'S ATTORNEY: | DEFENSE ATTORNEYS: |
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| Edward M. Chen | Nicholas Porritt, Elizabeth Tripodi, Alexander Krot, Joseph Levi, Adam Apton | Alexander Spiro, Andrew Rossman, Phillip Jobe, Ellyde Thompson, Jesse Bernstein, Michael Lifrak, Anthony Alden, Matthew Alexander Bergjans, William Price |
| TRIAL DATE: | REPORTERS: | CLERK: |
| January 23, 2023 | Belle Ball | Vicky Ayala |

| PLF NO. | DEF NO | TIME OFFERED | ID | ADM | DESCRIPTION |
|---------|--------|--------------|----|-----|---|
| | | 8:15 a.m. | | | Court in session. Housekeeping matters discussed outside the presence of the jury. The Court addressed Plaintiff's trial brief regarding the admissibility of Ex. 80, which had been filed late the previous evening. <i>See</i> Docket No. 611. The Court heard argument from the parties regarding authentication and the applicability of the residual exception to the rule against hearsay. The Court indicated that it would defer ruling on Ex. 80 until it had reviewed the authorities provided by the parties. The Court also informed the parties and audience members that the number of individuals accessing the court wifi system last week had interfered with the court realtime system, and asked any audience members to turn off their wifi access. |
| | | 8:40 a.m. | | | Jury present. |
| | | 8:42 a.m. | | | Witness, Elon Musk , returns to the stand from 9/20/2023. Witness previously sworn for testimony. Direct examination of witness by Nicholas Porritt resumes. |
| | | 9:09 a.m. | | | Jury excused for break. Court experiencing audio issues. |
| | | 9:27 a.m. | | | Jury present. |
| | | 9:27 a.m. | | | Nicholas Porritt resumes direct examination of witness. |
| 87 | | | X | X | Email from Elon Musk dated 8/7/2018 re FT article re: Saudi Investment in Tesla. |
| 121 | | | X | X | Text messages from cell phone of Elon Musk. Admitted subject to redactions. |
| 337 | | | X | X | Email from Deepak Ahuja to Elon Musk dated 8/7/2018 re Hey. |
| | | 11:02 a.m. | | | Jury excused for break. |
| | | 11:03 a.m. | | | Court in recess. |

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| | | 11:26 a.m. | | | Court reconvened. Discussion outside the presence of the Jury. Court overruled Defendants' objection to Exhibit 80. The Court first found that the document had been sufficiently authenticated under Federal Rule of Evidence 901. Plaintiff had provided evidence demonstrating a sufficient chain of custody from PIF through its attorney, then to the SEC according to process, and then from the SEC to Plaintiff's counsel. The Court further found that the residual exception to the rule against hearsay applied because sufficient notice had been provided and there were sufficient guarantees of trustworthiness after considering the totality of circumstances under which it was made, and the evidence corroborating the statement (including the marking/seal on the document, and corroborating evidence as to its origins and its contents). <i>See</i> Fed. R. Evid. 807 (a) and (b). The Court further found that the meeting minutes were more probative on the point for which it was offered than any other evidence that the proponent can obtain through reasonable efforts, given the circumstances of that particular meeting between members of the PIF and Tesla. The Court indicated that it will issue a formal written ruling to memorialize the Court's findings. |
| | | 11:40 a.m. | | | Jury present. |
| | | 11:41 a.m. | | | Nicholas Porritt resumes direct examination of witness. |
| 333 | | | X | X | Mutual Non-Disclosure Agreement dated 8/10/2018. |
| 254 | | | X | X | Document titled Discussion Materials Project Titanium dated 8/10/2018. |
| 101 | | | X | X | Tesla Board of Directors Meeting Minutes dated 8/23/2018. |
| | | 12:42 p.m. | | | Cross-examination of witness by Alexander Spiro. |
| 105 | | | X | X | Email from Sam Teller to Emma Gallagher dated 11/10/2016 re Next Week – Request to Meet with H.E. Yasir Al. |
| 106 | | | X | X | Email from Emma Gallagher to Elon Musk dated 1/31/2017 re Yasir wants to meet in SF. |
| 827 | | | X | X | Email from EMDesk dated 3/8/2017 re 7:30 PM Tour with Masa, Larry and Yasir. |
| | | 1:17 p.m. | | | Jury excused for break. |
| | | 1:18 p.m. | | | Court in recess. |
| | | 1:41 p.m. | | | Jury present. |
| | | 1:43 p.m. | | | Alexander Spiro resumes cross-examination of witness. |
| | | 2:00 p.m. | | | Jury admonished and excused for the day. |
| | | 2:05 p.m. | | | Court Adjourned. |